

REMARKS

As indicated in the Office Communication claims 1-12 are pending in the application with the claims 1-4 allowed and claims 5-12 presently rejected.

Claims 5-11 are objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claims 5-11 are also rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement based upon the earlier amendment of claim 5 which permits for R4, R5, 56 and R7 to be pyridine-2-yloxy and in addition claim 5 amended to permit for Re to be adamantly. Accordingly, claim 5 has been amended deleting both limitations "pyridine-2-yloxy" and "adamantly". In addition, claim 5 has been amending changing the expression "the indene derivative of claim 1" to - -a compound of formula (I)- -. Accordingly, the objection of claim 5 under 37 CFR 1.75(c) and the rejection of claim 5 under 35 USC 112, first paragraph, should now be withdrawn.

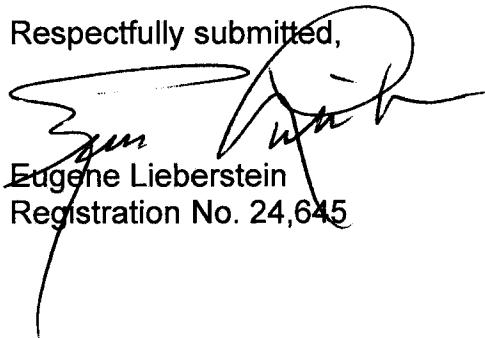
The rejection of claim 12 under 35 USC 112, first paragraph, for lack of enablement is respectfully traversed. Applicant has amended claim 12 to substitute the word - -activating- - for the term "modulating" as suggested by the Examiner. Accordingly, the rejection of claim 12 under 35 USC 112, first paragraph, should now be withdrawn.

In view of the amendment to claims 5 and 12, applicant believes all of the objections and rejections have now been overcome and claims 5-12 should be in

condition for allowance. Moreover, since claims 1-4 stand allowed, allow claims 1-12 are now believed to be in condition for allowance.

Reconsideration and allowance of claims 1-12 is respectfully solicited.

Respectfully submitted,


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CERTIFICATE OF TRANSMISSION

I hereby certify that this Amendment is being submitted via EFS-Web to
Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on January
21 2010.

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